



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:	)	Before the Examiner:
Estes et al.	)	James L Swiger III
	)	
Application Serial No. 10/650,494	)	Group Art Unit 3775
	)	
Filed August 28, 2003	)	Ref. No. MSDI-479/
	)	PC457.06
	)	
LATERALLY EXPANDING	)	September 23, 2009
INTERVERTEBRAL FUSION DEVICE	)	

**RESPONSE TO NON-FINAL OFFICE ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the non-final Office Action dated June 23, 2009, please enter and consider the following amendments and remarks. Additionally, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

September 23, 2009

Date of Deposit

Brad A. Schepers

Name of Registered Representative

Signature

September 23, 2009

Date of Signature

## **INTRODUCTORY COMMENTS**

Claims 2-4, 15, 28-36, 38-44, 46-61, 63-72, 77-88 and 104 were pending in the subject application for the non-final Office Action dated June 23, 2009. Claims 4, 32-34, 47-49, 51-56, 65, 66, 77 and 78 have been withdrawn from consideration. The remaining claims currently stand rejected. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.